THE HONOURABLE SRI JUSTICE

B.SESHASAYANA REDDY

WRIT PETITION NOS.9963 AND 11411 OF 2005

DISPOSED OF ON 24-01-2006.

BETWEEN:

W.P.No.9963/2005

HAZARATH AMEERUDDIN EDUCATIONAL SOCIETY.. PETITIONER

GIDDALUR, PRAKASAM DISTRICT.

AND

THE DIRECTOR, STATE EDUCATION RESEARCH

AND TRAINING CENTRE, BASHEERBAGH,

HYDERABAD AND OTHERS .. RESPONDENTS

W.P.NO.11411/2005

SRI.TALLAPAKA ANNAMACHARYA

EDUCATIONAL SOCIETY, RAJAMPET .. PETITIONER

AND

THE DIRECTOR, STATE COUNCIL OF

EDUCATION RESEARCH AND TRAINING

CENTRE, SAIFABAD, HYDERABAD AND OTHERS.. RESPONDENTS

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COMMON ORDER:

1. Since the issue involved in these two writ petitions is common, they were heard together and are being disposed of by this common order.

2. W.P.No.9963 of 2005 is filed by Hazarath Ameeruddin Educational Society, Giddalur, Prakasam District and whereas W.P.No.11411 of 2005 is filed by Sri.Tallapaka Annamacharya Educational Society, Rajampet. G.O.Ms.No.49 Education, Training Department dated 4.3.2005 is under challenge in these two writ petitions.

3. The writ petitioners-societies are running B.Ed colleges having been recognized by NCTE by proceedings dated 13.2.2004 and 12.1.2004 respectively.

4. NCTE is a statutory body under NCTE Act, 1993. any application from an institution seeking recognition to start a course in teacher education shall be accompanied by a No Objection Certificate from the State Government. In order to facilitate adequate number of teacher training institutions, the NCTE decided to dispense with requirement of NOC for a period of three years for those institutions already running B.Ed programmes recognized by NCTE and accordingly NCTE (Form of application for recognition, the time limit of submission of application, determination of norms and standards for recognition of teacher education programmes and permission to start new courses or training) Regulations, 2002 have been suitably amended. The last date for submission of application to start a new course was fixed as 5.2.2004 for the academic session 2004-05. The petitioners-societies have applied by submitting applications and thereupon the authorities conducted inspection and submitted reports. The matter is pending with the Regional Director, NCTE Southern Regional Committee, Bangalore- 2nd respondent with regard to the aspect of grant of recognition. The competent authority i.e. 2nd respondent instructed the petitioners- societies to provide the selection of requisite number of teachers as per the qualifications prescribed by the NCTE and

the affiliating University and to submit the same with particulars of teaching staff identified with the proposed institute. There upon, the petitioners-societies submitted the list of teaching faculty and sought for approval. 1st respondent has not considered the representation submitted by the petitioners-societies for approval of the faculty and instead the government issued G.O.Ms.No.49, dated 4.3.2005 whereby and where under the decision has been taken not to grant fresh permissions for the opening fresh Telugu Medium B.Ed and D.Ed colleges. Hence, these writ petitions challenging the validity of the impugned G.O.Ms.No.49, dated 4.3.2005.

5. Initially these two writ petitions are filed with a prayer to issue an order of direction one in the nature of writ of mandamus declaring the action of 1st respondent in not taking action for approval of the staff list submitted by the petitioners-societies as illegal, arbitrary and contrary to law. Subsequently, prayers have been amended whereby and where under G.O.Ms.No.49, dated 4.3.2005 came to be challenged.

6. 1st respondent filed counter affidavit and additional counter affidavit. The sum and substance of the counter affidavit and additional counter affidavit, in brief, is :

The Government of Andhra Pradesh imposed ban on permitting further B.Ed/D.Ed colleges in Telugu Medium as per the man power needs in the state and accordingly Director of School Education ordered not to approve any proposals. The decision of the State Government has been communicated to 2nd respondent. In view of the ban imposed by the Government in G.O.Ms.No.49, dated 4.3.2005 it would not be feasible to approve the staff list of D.Ed course proposed by the petitioners/societies. Since it is the policy of the State government not to have any more B.Ed/D.Ed colleges/ courses in the State, the issue of Government permitting SCERT, Hyderabad to approve the staff list of B.Ed courses may not arise. The Director, SCERT, Hyderabad has disposed of the application of the petitioners-societies in pursuance of the orders of this court dated 28.4.2005 in WPMP.No.12941 of 2005. At present, D.Ed courses are run in only DIETS @ one in each District. For the first time private managements submitted applications seeking permission to the second

respondent to start D.Ed course. The main reason for not approving staff is that the Director, SCERT, A.P. Hyderabad is not made the competent authority by the government to approve the staff list of unrecognized D.Ed courses of Private colleges of Education, in the State. The NCTE has issued certain guidelines to the State Government on 2.2.1996 for issuance of NOC for establishing teacher-training institutions. The relevant part of the guidelines reads as follows:

> " The establishment of teachers training institutions by the government, private managements or any other agencies should largely be determined by assessed need for trained teachers. This need should take into consideration the supply of trained teachers from existing institutions, the requirement of such teachers in relation to enrolment projections at various stages, the attrition rates among trained teachers due to superannuation, change of occupation, death etc. and the number of trained teachers on the live register of the employment exchanges seeking employment and the possibility of their deployment. The States having more than the required number of trained teachers may not encourage opening of new institutions for teacher education or to increase the intake."

It is further stated in the counter affidavit that under section 20 of the A.P. Education Act permission of the competent authority has to be obtained for establishment of any educational institution. Sec.20(3)(a)(i) says that before permission is granted the authority concerned must be satisfied that there is need for providing educational facilities to the people in the locality. There may be over all need for teachers in the country as a whole but as far as Andhra Pradesh is concerned the existing number of teachers are more than sufficient to meet the educational requirements of the State. As per the norms existing in the State the teacher-pupil ratio is 1:40. However, in Government schools the actual teacher pupil ratio is 1:32. Paras 12 and 13 of the additional counter affidavit need to be noted and they read as under:

> " 12. I submit that as per the statistics 2004-05, the teacher pupil ratio in the private institutions including unaided institutions is as follows:

Category	Number of teachers	No. of students	Ratio
Primary schools	47451	1682968	1:35.45

Upper PrimarySchools	45481	1099485	1:24.17
High Schools	63149	1609899	1:24.49
Overall ratio	1:28:14		

Thus, in State of Andhra Pradesh there are more number of teachers than what are required. The State Government appointed an expert committee to study the requirement of teachers and there upon the expert committee submitted a report indicating that the existing force of about 33,000 qualified teachers are sufficient to meet the educational needs of the State Government for the year 2013-14. A copy of the said report is filed herewith for the perusal of this Hon'ble Court.

13. I submit that as many teacher-training institutions have been mushrooming in the State of Andhra Pradesh the Government has constituted a Committee to examine the need for having more teacher training institutes in the State of Andhra Pradesh. The said Committee has comprehensively examined the issue from various angles and has come to the conclusion that the existing intake capacity of teachers, as well as the availability of trained teachers was more than sufficient to meet the future requirements upto the year 2013-2014. Consequent upon the report of the Expert Committee, the Government of Andhra Pradesh has banned the establishment of fresh Telugu medium B.Ed, colleges and D.Ed colleges vide G.O.Ms.No.49, School Education Department dated 4.3.2005. I submit that this was done in public interest to prevent the mushrooming of teacher training institutions which have been exploiting the unemployed youth with promises to provide jobs inspite of knowing fully well that, the job market was already saturated and also to prevent unrest among the trained unemployed teachers."

It is further stated in the counter affidavit that the Government has communicated G.O.Ms.No.49, dated 4.3.2005 to the NCTE and brought to its notice that there was no further need for establishment of any teacher training institutes in the State of Andhra Pradesh by its letter dated 16.3.2005. The State Government authorities alone can decide about the educational facilities and needs of the locality. The State Government has filed W.P.No.22866 of 2005 against NCTE in granting recognition for opening new B.Ed course without obtaining NOC from the State government and has also obtained an interim order on 24.10.2005 passed in W.P.M.P.No.2930 of 2005. G.O.Ms.No.49, dated 4.3.2005 came to be issued after due deliberations and on the basis of relevant data and therefore the said Government Order is perfectly valid in the eye of law.

7. Heard learned counsel appearing for the parties.

8. Learned counsel appearing for the petitioners-societies submits that the Government Order impugned in the writ petitions is not in consonance with the recommendation of the committee and therefore the same is required to be set aside. Learned Government Pleader for School Education submits that the Government Order impugned in the writ petitions came to be issued after considering the report of the committee constituted to assess the need for establishment of training colleges under private sector for primary, secondary and physical educational institutions in each District and therefore, the same needs no interference by this Court.

9. Undisputedly, the report of the Committee constituted for assessing the need for training colleges in the State has been based for issuing Government Order impugned in the writ petitions. The Committee examined two aspects. Firstly, to assess the need for more B.Ed colleges and secondly to assess the need for D.Ed colleges with an intake of 50 each. The relevant portion of the Committee report reads as follows:

> " The staffing pattern, enrolment range wise of Upper Primary Schools and High Schools is shown at Statement-II and Statement-III respectively. Probable growth of Institutions and teachers from 2004-05 to 2013-14 is shown at Statement-IV. The natural attrition rate has been projected as 3% and attrition due to promotion, redeployment, deputation etc. is taken as 0.5 % basing on the no. of vacancies arisen every year.
>
> The regular vacancies that may arise every year due to attrition at the above rates is prepared from 2004-05 to 2013-14 and perused at Statement-V.
>
> At present there are 304 B.Ed colleges with an intake of 33,903. As per the existing recruitment requirement the candidates possessing B.Ed qualification are also eligible for SGT posts. As seen from the future requirement of teachers from 2004-05 to 2013-14, approximately there is a need of 10,000 SGTs and 6,000 School Assistants i.e. about 16,000 teachers. The existing intake in B.Ed colleges will cater to the future requirement of teachers in Primary and High Schools as per the existing recruitment requirement.

The Committee feels that the two year D.Ed course is more useful for a teacher handling primary classes.

In case, the qualifications for Primary teachers is prescribed as only D.Ed Training then 10,000 D.Ed candidates are required for appointment as SGTs. The existing intake capacity of DIETs offering D.Ed is 3000 and there will be a shortfall of 7,000 D.Ed training candidates. In such a case there may be a need of 154 D.Ed colleges with an intake of 50.

The NCTE, New Delhi, has issued a Public Notification calling for applications for running D.Ed programme from the existing B.Ed colleges without NOC from concerned State/Union Territory. About 280 existing B.Ed colleges have applied to NCTE, Bangalore for starting D.Ed programme in their B.Ed colleges.

In view of the above mentioned recruitment requirements, there is no need for establishment of any more B.Ed colleges or D.Ed colleges or need for enhancement of intake in the existing B.Ed colleges."

The conclusion arrived at by the committee is contradictory to the assessment made by itself. The assessment made by the committee is explicit that there will be a short fall of 7,000 D.Ed trained candidates. There is a qualitative distinction between the teacher training institution, which caters to the graduate course and the teacher training institution, which caters to the primary education. Handling of primary students is now treated and considered as a specialized aspect of teachers profession as well. The primary teachers are required to possess a Diploma in educational qualification. The Diploma in education course is vastly distinct and different from B.Ed course. Therefore, I am of the view that the Government has not understood the report in toto and it simply carried away with the conclusion arrived at by the committee which is contradictory to its own assessment. In that view of the matter, I deem it appropriate to set aside the Government Order impugned in the writ petitions in so far as establishment of D.Ed colleges is concerned and direct the respondents to reconsider the issue and pass appropriate orders as expeditiously as possible preferably within six weeks from the date of receipt of a copy of this order.

12. With the above observations, these writ petitions are disposed of. No costs.

Dated: 24-01-2006. (B.Seshasayana Reddy, J)

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